

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

STEVE RAY BENTLEY,
Petitioner.

No. 2 CA-CR 2015-0175-PR
Filed June 19, 2015

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.

NOT FOR PUBLICATION

See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Crim. P. 31.24.

Petition for Review from the Superior Court in Maricopa County
No. CR2008031177001SE

The Honorable Michael D. Jones, Judge
The Honorable Karen A. Mullins, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

William G. Montgomery, Maricopa County Attorney
By Diane Meloche, Deputy County Attorney, Phoenix
Counsel for Respondent

Marc J. Victor, P.C., Chandler
By Marc J. Victor
Counsel for Petitioner

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MEMORANDUM DECISION

Judge Espinosa authored the decision of the Court, in which Chief Judge Eckerstrom and Presiding Judge Miller concurred.

ESPINOSA, Judge:

¶1 Steve Bentley seeks review of the trial court's order denying his petition for post-conviction relief filed pursuant to Rule 32, Ariz. R. Crim. P. We will not disturb those rulings unless the court abused its discretion. *See State v. Swoopes*, 216 Ariz. 390, ¶ 4, 166 P.3d 945, 948 (App. 2007). Bentley has not met his burden of demonstrating such abuse here.

¶2 Bentley was convicted after a jury trial of seventy-one counts of weapons misconduct. The trial court sentenced him to a 4.5-year prison term for the first count and to concurrent 4.5-year terms on the remaining counts, to be served consecutively to the term imposed for his first count. We affirmed his convictions and sentences on appeal. *State v. Bentley*, No. 1 CA-CR 09-0260 (memorandum decision filed Jul. 1, 2010). Bentley then sought post-conviction relief, arguing that his consecutive prison terms were improper because his convictions arose from a "single act." The trial court summarily denied relief, finding Bentley's claim precluded and concluding, in any event, that consecutive sentences were proper. This petition for review followed.¹

¶3 On review, Bentley repeats his argument that the trial court improperly imposed consecutive sentences. This claim could have been raised on appeal and thus cannot be raised in a petition for post-conviction relief. Ariz. R. Crim. P. 32.1(a), (c); 32.2(a).

¹ Despite a nearly two-year delay, the trial court granted Bentley's motion to file a delayed petition for review.

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Bentley does not address preclusion in his petition for review, but asserts in his reply to the state's response that we should characterize his claim as one of ineffective assistance of trial counsel—an argument he did not raise below. We do not address claims raised for the first time in a reply, *see State v. Lopez*, 223 Ariz. 238, ¶¶ 6-7, 221 P.3d 1052, 1054 (App. 2009), or that were not raised below, *State v. Ramirez*, 126 Ariz. 464, 468, 616 P.2d 924, 928 (App. 1980).

¶4 Although we grant review, relief is denied.